

3. Plaintiffs' original tax return for the December 31, 2010 tax year was filed on or before June 6, 2011 ("2010 Form 1040").

4. Plaintiffs filed a timely administrative claim for refund which was received by the Internal Revenue Service March 29, 2013.

5. This claim for refund was submitted by filing Form 1040X for tax year ended December 31, 2010 ("Refund Claim").

6. This refund claim was filed within the time limits set forth under I.R.C. section 6511, being both within three years of the date the return was filed and two years from when the tax was paid.

7. The entire amount of the refund is at issue as it was all deemed paid on April 17, 2011, which was within two years of the original claim for refund under I.R.C. section 6511(b)(2)(B), and well within three years of the claim under I.R.C. section 6511(b)(2)(A).

8. The Internal Revenue Service denied this claim for refund by letter dated September 19, 2013. A copy of this letter is attached hereto as Exhibit A.

9. This suit is commenced within two years of the date of the Internal Revenue Service's letter denying Plaintiffs' refund claim as required by I.R.C. section 6532.

VENUE

10. The District Court has venue under I.R.C. section 1402 because Plaintiffs are residents of Spokane County, Washington, which is in the Judicial District of the Eastern District of Washington.

BASIS FOR REFUND CLAIM

11. The request for refund is in income tax for the taxable year ended December 31, 2010 ("2010") as set forth as follows, all of which is in dispute:

<u>Year Ended</u>	<u>Refund</u>
Dec 31, 2010	\$9,708.00

12. The claim for refund was based on the following facts:

- a. The original return incorrectly calculated the amount of the charitable annuity gift that could be deducted in the 2010 and 2011 tax years.
- b. The original return calculated total charitable contributions of \$32,072.00, including only \$19,061.00 of a \$200,000.00 charitable annuity gift the Plaintiffs' made to Eastern Washington University on November 30, 2010.
- c. Of the \$200,000.00 donated to Eastern Washington University \$95,303.00 was allowed as a charitable tax donation in the year donated.

- d. The original tax preparer incorrectly determined that the \$95,303.00 deductible portion could be deducted only over five tax years and therefore deducted only \$19,601.00 of the appropriate deduction in tax year 2010.
- e. The correct amount of charitable contributions less charitable contribution carryovers as corrected on the Refund Claim is \$73,713.00.
- f. The original calculation of charitable contributions failed to include the remaining 4/5s of the charitable annuity gift to Eastern Washington University in the amount of \$76,442.00.
- g. This would bring the total charitable gifts in 2010 to \$108,314.00.
- h. Charitable gift limitations would then require a carryover of \$34,601 to the 2011 tax year.
- i. The 2011 tax was also amended to reflect this carryforward and that request for refund was processed and accepted by the Internal Revenue Service on May 6, 2013.
- j. The increase in 2010 charitable contributions reflecting the correct amount of the charitable annuity gift decreased the Plaintiffs' 2010 taxable income to \$61,006.00.

k. Based on a reduced taxable income of \$61,006.00 the Plaintiffs 2010 tax should be \$8,316.00 instead of \$18,024.00 as originally claimed on their original 2010 1040.


l. The Plaintiffs had previously paid this tax of \$18,024.00 on or before April 17, 2011.

m. Therefore, based on the corrected amount of tax as stated on the refund claim (Form 1040X) Plaintiffs are entitled to a refund in the amount of \$9,708.00.

WHEREFORE, Plaintiffs pray that the Court determine;

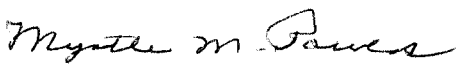
- (1) that Plaintiffs are entitled to a refund in income taxes in the amount of \$9,708.00; and
- (2) for all other relief as the Court may deem appropriate.

Respectfully Submitted,



Walter L. Powers
Plaintiff
2239 N. 6th St. #5
Cheney, Washington 99004
(808) 922-9610

9-17-15
Date



Myrtle M. Powers
Plaintiff
2239 N. 6th St. #5
Cheney, Washington 99004
(808) 922-9610

9-17-15
Date

09/23/2013 09:28 FAX 5092345340

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Department of the Treasury
Internal Revenue Service

FRESNO CA 93888-0049

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In reply refer to: 0663146668
Sep. 19, 2013 LTR 105C 0

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BODC: WI

WALTER L & MYRTLE M POWERS
25 N WASHINGTON COURT
CHENEY WA 99004-2411

001309

CERTIFIED MAIL

Taxpayer Identification Number: [REDACTED]
Kind of Tax: Income
Amount of Claim : \$ 9,708.00Date of Claim(s) Received: Mar. 29, 2013
Tax Period : Dec. 31, 2010

Dear Taxpayer:

WE COULDN'T ALLOW YOUR CLAIM

WHY WE'RE SENDING YOU THIS LETTER

This letter is your notice that we've disallowed your claim for credit for the period shown above.

WHY WE CANNOT ALLOW YOUR CLAIM

We did not receive the documentation previously requested to verify that you are entitled to the amount claimed.

IF YOU DISAGREE

You have the right to appeal our decision to disallow your claim. You may represent yourself before Appeals. You may have an attorney, certified public accountant, or person enrolled to practice before the Internal Revenue Service represent you. To have someone represent you, attach Form 2848, Power of Attorney and Declaration of Representative, (or similar written power of attorney) to your written statement. If we do not hear from you within 30 days from the date of this letter, we will process your case without further action.

You may request a small dollar case appeal for a disallowed claim that is not more than \$25,000 or prepare a formal protest for a disallowed claim over \$25,000.

To request a small dollar case appeal for a claim, do the following:
1. State that you want to appeal.

EXHIBIT

A

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WALTER L & MYRTLE M POWERS
25 N WASHINGTON COURT
CHENEY WA 99004-2411

2. List the disallowed items you disagree with and why you don't agree with each item.
3. Provide your name, address, taxpayer identification number, daytime telephone number, and a copy of this letter.
4. Mail your appeal request to the address shown on this letter.

To prepare a formal protest, do the following:

1. Prepare a written statement that you want to appeal the disallowance to the Appeals Office.
2. Provide your name, address, taxpayer identification number, a daytime telephone number, and a copy of this letter. Show the tax periods or years and disallowed items you disagree with and why you don't agree with each item.
3. Include a detailed statement of facts with names, amounts, locations, etc. to support your reasons for disputing the disallowance.
4. If you know the particular law or authority that supports your position, you should inform us of that law or authority. Please include a legal citation to assist in the appeals process that supports your claim, if applicable.
5. Sign the statement below and include it with your written appeal. If your authorized representative prepares the request for an appeal, he/she must sign the statement and include it with the appeal.
6. Mail your written formal protest to the address shown on this letter.

STATEMENT BY INDIVIDUALS OR SOLE PROPRIETORS

"Under penalties of perjury, I declare that the facts present on my written appeal are, to the best of my knowledge and belief, true, correct, and complete."

Signature

Date

Spouse's Signature, if a Joint Return

Date

STATEMENT BY ATTORNEY, ENROLLED AGENT OR CERTIFIED PUBLIC ACCOUNTANT

"Under penalty of perjury, I declare that I prepared the written statement and accompanying documents. To the best of my knowledge the protest and accompanying documents are true and correct."

Sep. 19, 2013

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WALTER L & MYRTLE M POWERS
25 N WASHINGTON COURT
CHENEY WA 99004-2411



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Signature of Representative

Enrollment Number Date

If you do not agree with our decision, you may file suit to recover tax, penalties, or other amounts, with the United States District Court having jurisdiction or with the United States Court of Federal Claims. These courts are part of the judiciary branch of the federal government and have no connection with the Internal Revenue Service.

The law permits you to do this within 2 years from the date of this letter. If you decide to appeal our decision first, the 2-year period still begins from the date of this letter. However, if you signed an agreement that waived your right to the notice of disallowance (Form 2297), the period for filing suit begins on the date you filed the waiver.

If you need forms, schedules or publications to respond to this letter, you can obtain them by visiting the IRS website at www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

HOW TO CONTACT US

If you have any questions, please call us toll free at 866-897-0177.

If you prefer, you may write to us at the address shown at the top of the first page of this letter.

Whenever you write, please include this letter and, in the spaces below, give us your telephone number with the hours we can reach you. Also, you may want to keep a copy of this letter for your records.

Telephone Number () _____ Hours _____